

621—5.6(20) Retention and recertification elections.**5.6(1) *Timing of election periods.***

a. The agency shall conduct an election, prior to the expiration of a collective bargaining agreement between an employer and a certified employee organization, to determine if the employees in a represented bargaining unit wish to retain and recertify the unit's certified representative. Elections will be conducted not less than once every five years.

b. For a certified employee organization that is a party to a collective bargaining agreement with a June 30 expiration date, the organization's retention and recertification election shall occur not earlier than June 1 nor later than November 1 in the year prior to the expiration of the agreement.

c. For a certified employee organization that is a party to a collective bargaining agreement with an expiration date other than June 30, the organization's retention and recertification election shall occur not earlier than 365 days nor later than 270 days prior to the expiration of the agreement, except as provided in subrule 5.6(10).

d. If the certified employee organization has paid the applicable election fee in a timely manner as provided in subrule 5.6(5), the organization's status shall not be adversely affected if the election is not concluded in compliance with this rule.

e. When scheduling a retention and recertification election, the agency will presume the collective bargaining agreement is for a term of one year commencing July 1 and ending June 30 unless the agreement clearly states an alternate term and effective dates.

f. Should an employer fail to file a collective bargaining agreement with the agency as required by Iowa Code section 20.29, or if the parties have no agreement, the agency will, for purposes of scheduling the election, presume a maximum expiration date of five years pursuant to Iowa Code section 20.9 or two years pursuant to Iowa Code section 20.15, whichever is applicable, unless the employer subsequently submits a collective bargaining agreement that allows the agency to conduct an earlier election in accordance with subrule 5.6(1).

g. An extension of a collective bargaining agreement will alter the timing of the retention and recertification election only if the parties have reached agreement on the extension and have notified the agency in writing prior to the date the fee is due as set forth in the notice of intent to conduct the election. Should the parties' collective bargaining agreement inclusive of any extensions exceed five years, the agency will, for purposes of scheduling the election, presume a maximum duration of five years pursuant to Iowa Code section 20.9 or two years pursuant to Iowa Code section 20.15, whichever is applicable.

h. At least 30 days prior to the commencement of the retention and recertification election period, a public employer shall notify the agency if the certified employee organization has not been correctly identified as one which requires an upcoming election. The public employer shall submit to the agency all relevant information requested. The agency shall conduct an investigation to determine whether the election is required by statute and rule.

5.6(2) *General procedure.*

a. Upon determining that a retention and recertification election is required, the agency shall file a notice of intent to conduct an election which shall contain the dates of the election period; the place, method, and purpose of the election; the date the voter list for determining fees is due; and the date upon which the employee organization shall pay the applicable election fee. The agency shall order the public employer's submission of the voter eligibility list in accordance with rule 621—5.2(20) and subrule 5.6(4).

b. Following the public employer's submission of the list of eligible voters as provided in subrule 5.6(4) and the agency's receipt of the applicable election fee from the certified employee organization, the agency will file an order directing a retention and recertification election and a notice of election, copies of which shall be promptly posted by the employer in the manner and locations customarily used for the posting of information to employees. If a public employer customarily distributes information to employees by additional means, such as by email or hard copy, the public employer shall also promptly distribute such notice to employees by those means. Such notices shall contain a sample ballot or script

and shall set forth the dates of the election period; time, place, method, and purpose of the election; and such additional information as the agency may deem appropriate.

5.6(3) *Objection to notice of intent to conduct an election.*

a. The certified employee organization or public employer may file an objection asserting that the election should not be conducted for reasons set forth in the objection. The objection shall be in writing and electronically filed no later than seven days following the date of the notice of intent to conduct an election.

b. The agency may conduct a preliminary investigation of the objection and determine if the objection has merit. The agency will dismiss objections without merit and schedule hearings for all other objections. Hearings on objections shall be conducted pursuant to 621—Chapter 2. The objecting party shall present its evidence first.

5.6(4) *Eligible voter list for determining election fee.*

a. The public employer shall email to the agency a list of the employees in the bargaining unit in question within seven days of the filing of the notice of intent to conduct an election. This list shall be organized alphabetically and contain the names; addresses; email addresses, if known; job classifications; dates of birth; the last four digits of the employees' social security numbers; and any other information required by the agency. The employer shall separately email the certified employee organization to confirm that the employer provided the agency with the voter list and will provide the date the list was emailed to the agency and the number of employees on the list. The agency shall file the list of eligible voters' names and job classifications. The agency shall provide to the certified employee organization the list with the employees' contact information. The certified employee organization shall use this list to determine the election fee as provided in subrule 5.6(5).

b. If the public employer fails to submit the list of eligible voters to the agency by the deadline set in the notice, the agency will not conduct the election and will file an order recertifying the employee organization.

5.6(5) *Payment of election fee.* A certified employee organization shall pay the applicable election fee as set forth in the notice of intent to conduct the election, except as otherwise authorized by this subrule. The election fee shall be paid by check payable to the agency and is deemed paid upon receipt by the agency or, if submitted by mail, on the date of the U.S. Postal Service postmark affixed to the envelope in which the payment was mailed. The agency may grant a certified employee organization's written request for an extension of time to pay the fee for good cause if the request is filed as set forth in the notice of intent to conduct the election. The agency will not conduct an election prior to receiving the applicable election fee. The certified employee organization's failure to pay the applicable election fee by the deadline set in the notice shall result in revocation of the organization's certification.

5.6(6) *Voter eligibility list.*

a. When the agency files an order directing that the retention and recertification election be conducted, the employer shall, within seven days of the order, email to the agency a second alphabetical list of the names; addresses; email addresses, if known; telephone numbers; and job classifications of the employees eligible to vote. If the list the employer previously provided pursuant to subrule 5.6(4) is unchanged, the employer does not need to email a subsequent list. The agency shall file the list of eligible voters' names and job classifications. This list shall become the official eligible voting list for the election to be conducted. The agency shall provide to the certified employee organization the voter list with the employees' contact information.

b. The employer shall not add to or delete from the list any employee name after the submission of the above-described voter eligibility list. By contacting the employer, the certified employee organization may propose additions to or deletions from the list of employees' names prior to the date of the election for in-person elections, prior to the date the ballots are mailed for mail-ballot elections, or seven days prior to the commencement of the election period for telephonic/web-based elections. The parties may amend the list by agreement prior to the date of the election for in-person elections, prior to the date the

ballots are mailed for mail-ballot elections, or seven days prior to the commencement of the election period for telephonic/web-based elections.

5.6(7) Ballots. Ballots shall contain the question “Do you want [name of certified employee organization] to be retained and recertified and continue to be your exclusive bargaining representative?” followed by the choices “Yes” or “No.”

5.6(8) Postelection challenges.

a. In addition to voter eligibility challenges made pursuant to subrule 5.2(3), a certified employee organization may make postelection challenges to the total number of bargaining unit employees for their respective retention and recertification elections. The certified employee organization may file a postelection challenge to the number of bargaining unit employees if an eligible voter has left employment and is no longer in the bargaining unit prior to the close of the election or election period. The employee organization shall file this postelection challenge within ten days of the filing of the tally of ballots. The agency shall attempt to resolve the dispute. Whenever postelection challenges are unresolved and determinative of the outcome of an election, a hearing to determine whether an eligible voter left employment and was no longer in the bargaining unit prior to the close of the election or election period shall be scheduled and conducted. The board may make appropriate adjustments to the tally or order a new election based on the board’s findings and conclusions.

b. The employer is responsible for ensuring the accuracy of the list after its submission and throughout the election period. The employer shall promptly notify the certified employee organization whenever an eligible voter leaves a position of employment in the bargaining unit prior to the close of the election or election period.

5.6(9) Certification of results.

a. Upon completion of a valid retention and recertification election in which an employee organization received the votes of a majority of employees in the bargaining unit, the agency shall file an order recertifying the employee organization as the exclusive bargaining representative of the employees in the bargaining unit.

b. Upon completion of a valid retention and recertification election in which an employee organization did not receive the votes of a majority of employees in the bargaining unit, the agency shall file an order decertifying the employee organization as the exclusive bargaining representative of the employees in the bargaining unit.

5.6(10) Elections for employee organizations that represent employees of school districts, area education agencies and community colleges. If certified employee organizations representing employees of a school district, area education agency, or community college would otherwise be scheduled for a retention and recertification election to be held between May 1 and September 30, the agency will postpone those elections until October of that calendar year and the timelines of subrules 5.6(2), 5.6(4), and 5.6(5) will apply.

[ARC 3278C, IAB 8/30/17, effective 8/10/17; ARC 3803C, IAB 5/9/18, effective 6/13/18]